



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

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September 17, 1998

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Magalie Roman Salas, Secretary
Federal Communications Commission
1900 M Street, N.W.
Washington, D.C. 20554

SEP 18 1998
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RE: GTE Telephone Operating Companies, GTOC Tariff
F.C.C. No. 1 (GTOC Transmittal No. 1148),
(GTOC Transmittal No. 1172),
CC Docket No. 98-79

ATTN: Common Carrier Bureau, Competitive Pricing Division

Dear Secretary Salas:

Enclosed for filing and consideration in the above-captioned proceeding are Comments on Direct Case on behalf of the Pennsylvania Public Utility Commission. An original and six (6) copies are included. Additionally, I have also enclosed a copy to be time-stamped and returned to me in the attached self-addressed envelope.

Our comments are crucial to the Commission's consideration of the filing, and address important underlying issues of state concern.

Very truly yours,

David E. Screven

David E. Screven
Assistant Counsel

Enclosures

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)

GTE Telephone Operating Companies,)

GTOC Tariff F.C.C. No. 1,)

GTOC Transmittal No. 1148,)

GTOC Transmittal No. 1172)

To the Competitive Pricing Division)

CC Docket No. 98-79

COMMENTS ON DIRECT CASE ON BEHALF OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

1. Before the Federal Communications Commission (the Commission) is an interstate access tariff filed by GTE Telephone Operating Companies (GTE) proposing to introduce a new telecommunications service -- GTE DSL Solutions-ADSL (Asymmetrical Digital Subscriber Line) Service.

2. GTE's new offering would become effective in portions of 14 states, including the Commonwealth of Pennsylvania pursuant to GTE Telephone Operating Companies, GTOC Tariff No. 1, GTOC Transmittal No. 1172 filed with the Commission on August 28, 1998.

3. GTE asserts that its GTE DSL Solutions-ADSL service offering is an interstate data special access service that will provide high speed access connection between an end-user subscriber and an Internet Service Provider (ISP) by utilizing a combination of the subscriber's existing local exchange physical plant, a specialized

DSL-equipped wire center, and transport to the network interface where the ISP will connect to GTE's network.

4. GTE explains that its ADSL service offering will enable simultaneous transmission of voice dialed calls and high speed data access over a single path, thereby reducing the need for subscribers to obtain additional lines for Internet access capabilities.

5. GTE asserts that its ADSL Service is appropriately filed as an "interstate access service" tariff because the Commission and court precedents have indicated that it is the nature of end-to-end communication itself rather than "the physical location of the technology that determines the jurisdictional classification."

6. GTE contends that Internet traffic is primarily interstate in nature because ISP providers connect end users to information both local and worldwide.

7. GTE noted that section 69.2(b) of the Commission's rules defines access service as "includ[ing] services and facilities provided for the origination or termination of any interstate or foreign telecommunications" and explains that its DSL offering should be properly designated as an "interstate access tariff" because the calls to ISP providers that GTE's ADSL service will be handling "are part of one continuous path originating at the end user's site and terminating at the Internet servers accessed."

8. Approval of GTE's purported "interstate access tariff" filing by the Commission could have an adverse impact on the current rates charged by GTE for ISP traffic in Pennsylvania.

9. Commission policy has held this type of traffic (ISP calls) exempt from interstate access charges and subject to local service charges which currently fall under the jurisdiction of the various states.

10. The Pennsylvania Public Utility Commission ("the PaPUC") has not made a determination as to whether ISP calls should be designated as "local" and thus properly tariffed at the state level or "interstate" and properly tariffed at the federal level.

11. However, the PaPUC is currently involved in a generic proceeding at P-00981404 and investigating whether Internet calls are properly classified as either "local" or "interstate".

12. The PaPUC asks that any Commission determination regarding the jurisdictional classification of GTE's tariff should be made with a view to sustaining any determination the PaPUC may make in its own generic proceeding which should be concluded before the date of any FCC decision on this tariff.

13. The PaPUC asks this because, by seeking Commission approval for the instant tariff filing, GTE could conceivably be attempting to preempt the PaPUC's determination of whether Internet calls are "local" calls or "interstate" calls.

14. Moreover, by allowing this tariff to go into effect, the FCC could be inadvertently encouraging "forum-shopping" as a way to preempt a state's efforts to resolve matters of local concern such as the policy treatment of Internet calls.

CONCLUSION

15. For the foregoing reasons, the PaPUC respectfully requests that any Commission determination regarding the jurisdictional classification of ISP calls,

expressly sustain any determination made by the PaPUC prior to the Commission's decision in the instant matter so as to preserve the integrity of the PaPUC's investigation of Internet calls and the Commonwealth of Pennsylvania's treatment of those (Internet) calls.

16. The PaPUC's current proceeding investigating Internet calls at Docket No. P-00981404 is scheduled for completion by December 31, 1998. Thus, in the alternative, the PaPUC respectfully requests that if a determination must be made by the Commission in the instant matter before January 1, 1999, that the Commission reject GTE's tariff filing, Transmittal No. 1148 and Transmittal No. 1172.

Respectfully submitted,



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DATED: September 16, 1998

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

GTE Telephone Operating Companies,)

CC Docket No. 98-79

GTOC Tariff F.C.C. No. 1,)

GTOC Transmittal No. 1148,)

GTOC Transmittal No. 1172)

To the Competitive Pricing Division)

CERTIFICATE OF SERVICE

I, David E. Screven, hereby certify that I have on this 16th day of September served a true and correct copy of the Comment on the Direct Case on behalf of the Pennsylvania Public Utility Commission (PaPUC) upon the persons and in the manner indicated below:

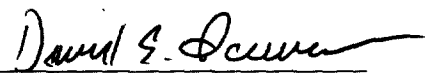
Via Federal Express

Magalie R. Salas, Secretary
Office of the Secretary
FCC
1919 M Street NW
Washington, D.C. 20554

September 16, 1998 by First Class Mail:

Competitive Pricing Division
Common Carrier Bureau
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1919 M Street, N.W.
Washington, D.C. 20554

International Transcription Service, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036



David E. Screven
Assistant Counsel
Pa. Public Utility Commission

DATED: September 16, 1998